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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

JOEL WALLENDER,	) Case No. 3:05-cv-263-JKS
	)
Plaintiff,	) <b>UNITED STATES' MOTION FOR</b>
	) <b>LEAVE OF COURT TO ADD</b>
vs.	) <b>ADDITIONAL FACTUAL</b>
	) <b>MATERIAL TO REPLY BRIEF</b>
UNITED STATES OF AMERICA,	)
	) <i>Filed on shortened time</i>
Defendant.	)
_____	)

The United States, through counsel, moves *on shortened time* for leave of Court, pursuant to Local Rule 7.1(h)(2)[A], to add additional factual material to its Reply to Plaintiff's Response to Defendant's Motion for Summary Judgment at Docket 21. Counsel spoke with Plaintiff's counsel, Mr. Ehrhardt, about the additional material, but Mr. Ehrhardt had not had the time to decide whether to

oppose the additional material or not. He will respond in writing. In the event that the material is added, Government counsel does not oppose a sur-reply limited to issues raised by the additional material.

When the Motion was filed on April 7, 2006, counsel was not aware of the existence of Osborne Construction's daily reports. She became aware of the material in discussing issues raised in the Opposition with the engineers assigned to the construction project. The additional material, labeled Exhibits J, K, L, and M, was produced to Mr. Ehrhardt on January 8, 2007. The exhibits are listed in the Reply at Docket 26 at page 11.

RESPECTFULLY SUBMITTED January 22, 2007, in Anchorage, Alaska.

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2007  
a copy of the foregoing **UNITED STATES' MOTION FOR  
LEAVE OF COURT TO ADD ADDITIONAL FACTUAL  
MATERIAL TO REPLY BRIEF and PROPOSED ORDER**  
was served electronically on Peter R. Ehrhardt.

s/ Susan J. Lindquist